

251 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1673-2023 (O&M)
Date of Decision: 21.03.2024

AMANDEEP @ AMANDEEP SHARMA ... APPELLANT

V/S

STATE OF HARYANA AND OTHERS ... RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Hoshiar Singh Jaswal, Advocate for the appellant.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

Mr. Aditya Gautam, Advocate for respondent Nos.2&3.

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HARPREET KAUR JEEWAN, J. (ORAL)

[1] The appellant is aggrieved by judgment of conviction dated 20.05.2023 and order of sentence dated 25.05.2023 passed by the Addl. Sessions Judge, Ambala, whereby the appellant has been sentenced under Section 4 of Protection of Children from Sexual Offences Act to undergo rigorous imprisonment for a period of 7 years and has been imposed a fine amounting to Rs. 2,000/-, and in default thereof, to further undergo rigorous imprisonment for a period of one month in FIR No. 18 dated 21.02.2019, registered at Police Station Women, District Ambala, under Sections 376, 328 of the IPC and Section 4 of Protection of Children from Sexual Offences Act.

[2] Learned counsel for the parties are *ad idem* that the age of prosecutrix was 17 years and 8 months (Date of Birth:28.06.2001) at the time of incident. Though the appellant has been convicted and sentenced

under Section 4 of the POCSO Act, however, compromise has been effected

between the parties. The marriage between the applicant-appellant and respondent No.3-Prosecutrix was solemnized on 10.07.2019 after attaining the age of majority. They are blessed with a male child who was born on 12.09.2020 (as per Date of Birth Certificate (Annexure A-3)).

[3] During the pendency of the present appeal, the parties have compromised the matter and compromise deed dated 18.03.2019 (Annexure A-1) is placed on record and following order was passed in CRM-47552-2023:-

“Present application has been filed under Section 320 of Cr.P.C, praying for permitting the parties to compound the offence and to allow the appeal and also to acquit the appellant from the charges leveled against him as the parties have entered into compromise after conviction vide compromise dated 18.03.2019.

Learned counsel for the appellant inter alia contends that case was registered at the instance of complainant who is father of the prosecutrix at the time of registration of the case. The age of prosecutrix was 17 years and 8 months (Date of Birth:28.06.2001) at the time of incident. Though the appellant has been convicted and sentenced under Section 4 of the POCSO Act, however, compromise has been effected between the parties. The marriage between the applicant-appellant and respondent No.3 (Prosecutrix) was solemnized on 10.07.2019 after attaining the age of majority. They are blessed with a male child who was born on 12.09.2020 (as per Date of Birth Certificate (Annexure A-3)). Even the complainant, mother of the prosecutrix and the prosecutrix (PW-5, PW-6 and PW-7) not stated any incriminating thing against the appellant. No purpose would be served by sending the appellant to custody as it could affect the life of the appellant, victim and the male child.”

[4] Learned counsel appearing on behalf of respondent Nos. 2 and 3 has confirmed the factum of compromise between the parties.

[5] On 08.02.2024, the parties were directed to appear before the trial Court/Illaqa Magistrate for recording of their statements regarding the compromise.

[6] As per the report dated 20.02.2024, received from the learned Addl. Sessions Judge, Ambala, the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. The appellant has not been declared as “Proclaimed Offender”.

[7] Learned State counsel has not raised any objection regarding the acceptance of the present appeal.

[8] In *Sukhwinder Singh and another vs. State of Punjab and another (CRM-M-31595-2022)*, decided on 26.09.2022, while quashing the FIR and the proceedings under Section 482 Cr.P.C. which was registered under Section 457 and 380 of the IPC, a co-ordinate Bench of this Court, quashed the proceedings including the judgment of conviction and sentenced, charges and FIR while placing reliance on the decision of Hon’ble the Apex Court in *Shakuntla Sawhney vs. Kaushalya Sawhney* (1979) 3 SCR 639, it was observed that the finest hour of justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sentence of fellowship or reunion.

[9] Hon’ble the Apex Court in *Ramgopal vs. State of Madhya Pradesh 2021 (4) RCR (Criminal) 322*, quashed the proceedings by observing that the criminal proceedings involving non-heinous offences or where the offence are per-dominantly of a private nature, can be annulled irrespective of the fact that the trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions.

[10] Keeping in view the facts and circumstances of the case, the fact that the compromise between the parties is genuine and voluntarily

made, this appeal is allowed and judgment of conviction dated 20.05.2023 and order of sentence dated 25.05.2023 passed by the Addl. Sessions Judge, Ambala is set aside and FIR No. 18 dated 21.02.2019, registered at Police Station Women, District Ambala, under Sections 376, 328 of the IPC and Section 4 of Protection of Children from Sexual Offences Act and all the subsequent proceedings emanating therefrom are ordered to be quashed, qua the appellant.

[11] However, respondent No.3-Shreya and the State shall be at liberty to seek cancellation of this order, in case the final terms and conditions of compromise dated 18.03.2019 are violated.

[12] Pending miscellaneous application(s), if any, shall also stand disposed of.

21.03.2024
Janki

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned : Yes/No ;
Whether reportable : Yes/No